

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

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MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

DB STRUCTURED PRODUCTS, INC., et al.,

Defendants.

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Civil Action No. 3:11-30039-MAP-KPN

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MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

RBS FINANCIAL PRODUCTS INC. (F/K/A  
GREENWICH CAPITAL FINANCIAL PRODUCTS,  
INC.), et al.,

Defendants.

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Civil Action No. 3:11-30044-MAP-KPN

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MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

DLJ MORTGAGE CAPITAL, INC., et al.,

Defendants.

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Civil Action No. 3:11-30047-MAP-KPN

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MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

CREDIT SUISSE FIRST BOSTON MORTGAGE  
SECURITIES CORP., et al.,

Defendants.

Civil Action No. 3:11-30048-MAP-KPN

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MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

JPMORGAN CHASE BANK, N.A., et al.,

Defendants.

Civil Action No. 3:11-30094-MAP-KPN

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MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

GOLDMAN SACHS MORTGAGE COMPANY, et al.,

Defendants.

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Civil Action No. 3:11-30126-MAP-KPN

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MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

IMPAC FUNDING CORPORATION, et al.,

Defendants.

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Civil Action No. 3:11-30127-MAP-KPN

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MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY,

Plaintiff,

v.

HSBC BANK USA, NATIONAL ASSOCIATION, et  
al.,

Defendants.

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Civil Action No. 3:11-30141-MAP-KPN

**MASSMUTUAL’S MOTION FOR AN ORDER SETTING A SCHEDULE  
FOR AN EARLY DETERMINATION OF SAMPLING ISSUES**

Plaintiff Massachusetts Mutual Life Insurance (“MassMutual”) hereby moves for an order setting a schedule for an early determination of sampling issues. As described more fully in MassMutual’s portions of the Parties’ Statements filed herewith, appropriate sampling of loan files is a critical component of proof in these cases. Courts have routinely approved sampling in cases such as this, and without sampling these trials would involve presentation of 231,824 individual loan files. Challenges to the admissibility of a sampling methodology and the resulting samples should be decided well before the September 2013 close of document discovery so that the parties may streamline fact and expert discovery, and allow for any necessary modifications to the samples before costly re-underwriting of loan files by the parties’ experts takes place.

MassMutual’s motion therefore respectfully requests that the Court order the following schedule so that it can make an early ruling addressing challenges to the admissibility of loan file sampling:

February 13, 2013	Loan tapes produced by Defendants
April 12, 2013	Expert reports on loan sampling submitted
May 10, 2013	<i>Daubert</i> motions on sampling
June 7, 2013	Oppositions to <i>Daubert</i> motions on sampling
June 21, 2013	Replies in support of <i>Daubert</i> motions on sampling
June 28, 2013	Hearing on <i>Daubert</i> motions on sampling

This Motion is made in conformity with Local Rule 37.1(b). Counsel for MassMutual and counsel for Defendants in the above-listed cases (collectively, “Defendants”) met and

conferred on January 28, 2013 regarding a proposal for expert discovery. Defendants did not agree with MassMutual's proposal for the early exchange of sampling expert reports and the early resolution of challenges to the sampling methodology and resulting samples under Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharmaceuticals*, 509 U.S. 579 (1993). Certain Defendants also have not confirmed a date certain by which they will produce final loan tapes, despite MassMutual's request that they do so. For discovery to move efficiently and on the ordered timeline, it is important that the Court address these issues early in the case. MassMutual accordingly asks that the Court order the above schedule for resolution of challenges to sampling methodology.

DATED: February 11, 2013

MASSACHUSETTS MUTUAL LIFE INSURANCE  
COMPANY

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**CERTIFICATE OF SERVICE**

I hereby certify that this document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 11th day of February, 2013.

*/s/ Edward J. McDonough Jr.*

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Edward J. McDonough Jr.